

United States District Court
Southern District of New York

Timothy Frazier
Defendant (9)

90 cr. 913 (LAP)

- Against -

United States of America.

18 U.S.C. 3582 (c)(1)(A)

Compassionate Release

Timothy FRAZIER Defendant (9), Submits in this form of proper person pro-se, move's the Court to review this motion under Haines v. Kerner 404 U.S. 519, 520, 92 S.Ct. 594, 30 L.Ed. 652 (1972). That the Court holds Defendant to less Stringent Standard. Defendant Ask's the Court to review this motion in its entirety.

ON or About November 4, 1991, Defendant entered A guilty plea AND WAS Sentenced on July 16, 1992 to A term of one year imprisonment (dkt. no. 144) Consecutive with the

term of imprisonment in the State. Since his return to B.O.P. Custody (September 12, 2019), Defendant has Served An Additional 7-months towards his one year Sentence At the time of this Application.

During this time frame, there has been An outbreak of A deadly infectious disease (COVID-19) that has been most detrimental to All Age groups, but most Significantly harmful to people over 50-years of Age.

Defendant WAS born February 3, 1969, And diagnosed At birth with Asthma, A respiratory lung disease that he has battled with his entire life; And due to Defendants medical Condition, he is highly Suseptible to Contracting the (COVID-19) Coronavirus.

In order for Defendant to have been paroled from his State Sentence, Defendant would have had to Satisfy Similar requirements As Sought by B.O.P., i.e. Risk Assessment, Satisfactory completion of required programs (Academic And therapeutic), As well As provide quality re-entry plan.

Due to the unforeseen circumstances of this

National Emergency, Defendant does not enjoy the privilege of possessing and/or attaining specified documentations to show qualifications, herewith, meeting re-entry standards except to say that Defendant is now in the custody of the B.O.P. as a paroled State inmate. Nevertheless, Defendants Din number with the D.O.C.C.S. : 90T4084 can provide access to all known and relevant documentations to support any additional efforts of release concerns. This includes Defendants submitting his place of residency with his Dad, in North Carolina: Edward Frazier, 1801 Birchwood Drive, Wilson, North Carolina 27893; Phone Number 252-281-3868.

With regards to the safety and security of the community, Defendant, even while in the custody of the B.O.P., has continued to display the character of a person with the willing desire to abide and live at liberty without breaking the law, and by following the rule's and condition's

Set forth by the D.O.C.S. [Department of Corrections And Community Supervision] Parole Board, and has not, in the past 7-months under BOP custody, had any incidents of misbehavior or bad conduct. *United States v. Wirsing*, 943 F.3d 175, 179, 183 (4th Cir. 2019).

CARES Act

The CARES Act was Signed by President D. Trump March 26, 2020. Under § 12003 "The Secretary [of Health And Human Services] Shall appropriately consider, relative to other priorities of the Department of Health And Human Services for high-risk and high-need populations, the distribution of infectious disease personal protective equipment and COVID-19 test kits to the Bureau."

Section 12003 goes on to say the following:

HOME CONFINEMENT AUTHORITY. During the covered

emergency period, if the Attorney General finds that emergency conditions will materially affect the functioning of the Bureau, the Director of the Bureau may lengthen the maximum amount of time for which the Director is authorized to place a prisoner in home confinement under the first sentence of Section 3624 (c)(2) of title 18, United States Code, as the Director determines appropriate.

(The "covered emergency period" means the date on which the President declared a National Emergency for COVID-19 up until 30-days after the National Emergency declaration terminates)

March 13, according to <https://www.whitehouse.gov/Presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>

Consequently, BOP now has the ability to give more than 6-months or 10-percent of an inmate's sentence in home confinement.

CONCLUSION

The reason's why Defendant is Asking the Court to Act is because Defendant, now 51-years of Age, And being A Chronic Asthmatic from birth, falls into the category of "high-risk And high-need" inmate And is Vulnerable to Contracting the (COVID-19) Coronavirus. This Can be Verified And proven through medical records here At M.D.C. Brooklyn New York. But because of the high level of Alert over the COVID-19 outbreak And National Emergency, At the institution, medical staff were Not Available to provide Defendant with medical records to be Presented As exhibits, Showing Defendants Asthmatic Condition And treatment history At this time. (See Exhibit A).

Moreover, on the fifth floor of M.D.C. Brooklyn New York, (where Defendant is being housed), Across the hall [unit-53] An outbreak of the Coronavirus has spread (A fact to be discovered by Defendant on March 30, 2020.) And the Very

Next day, March 31, 2020, due to fears of incompetent Practices by Staff in insisting to interact between [Unit 53] (A hot spot), and [Unit 52] (An uncontaminated Area), by using food serving equipment, not changing their contaminated gloves and/or gear that was worn in the infected Area across the hall, a minor disruption was triggered when an officer, thought to be introducing an inmate from a previously infected Area, brought said inmate into [Unit 52]. Verification of these events can be discovered through reviewing Security records explaining why housing [Unit 52] was locked down early on March 31, 2020, at approximately 2:30pm; and why the previous day [Unit 53] was declared to be under quarantine. In light of the events of March 31, 2020, [Unit 52] remained on lock down and was given an "Inmate Bulletin" April 1, 2020 with different reasons justifying the lockdown. (See also Exhibit "A").

Pretrial inmates And Others Such As Defendant whose designation has been M.D.C. Brooklyn New York, have not, and Are Not, being provided with the least of Personal protective gear during this pandemic, i.e. Face MASK, gloves, And protection from potentially infected COVID-19 carriers. Although Claims Are being made by the institution, No Screening/testing/prevention have been practiced; especially not in [United 52], with the exception of four inmate's brought here Approximately three Week's Ago, who were being monitored daily for 14-days, for fever check.

It is for the reason's Set forth within this motion that Defendant Ask's the Court to grant relief As immediate And expiditionously As can be Conducted. Ross v. Blake 578 U.S. 136 S.Ct. 195 L.Ed 2nd 117. 2016

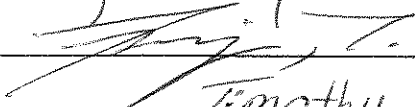
Facts

- 1) September 12, 2019 transferred to BOP, started 12-month Sentence.
- 2) Defendant located At M.D.C. Brooklyn, New York, where on March 13, 2020 President Trump declared A National Emergency because of the Novel Coronavirus (COVID-19) outbreak.
- 3) M.D.C. Brooklyn, New York cannot provide Adequate treatment, i.e. mask, safety gloves, ventilator machines, medication, COVID-19 test kits, and other vital and necessary medical treatment / equipment to combat this war against the deadly outbreak of the Novel Coronavirus (COVID-19).
- 4) Defendant on Parole from State Sentence, and Availability of re-entry plans provided through DOCCS (Department of Corrections And Community Supervision).

Date: April 3, 2020

M.D.C. Brooklyn, New York

Respectfully Submitted



Timothy FRAZIER

30075-054

(9)

MDC BROOKLYN INMATE BULLETIN

Effective Date: April 1, 2020

- In response to COVID-19, the Bureau of Prisons (BOP) has instituted a comprehensive action plan that includes screening, testing, appropriate treatment, prevention, education, and infection control measures.
- Many of you are following the Media regarding COVID-19 and the impact throughout the country. As a result in the increase of COVID-19 cases throughout the United States, the BOP will be implementing a "Stay in Shelter" for 14 Days in order to stop the spread. This is not punitive but rather a nation-wide effort and response to a public health emergency.
- During this time, you will be given access to medical care, showers, phone and email access in small groups at designated times, on a limited basis. Meals and limited commissary will be delivered to the housing units. Some inmate workers will be needed, but it will be on a limited basis.
- We ask that you continue to increase your sanitation and hygiene efforts in the housing unit and in your cells. Staff have increased the sanitation efforts throughout the institution.
- One inmate has tested positive for COVID-19, and is no longer contagious according to CDC guidelines. The institution modified operations and "Stay in Shelter" is an effort to be proactive.
- You are encouraged to avoid touching your face, wash your hands frequently with soap and water, in accordance with Centers for Disease and Control and Prevention (CDC) guidance. Practice social distancing whenever practical.
- The BOP has developed and implemented an action plan for our supply management, inmate movement, as well as other important aspects. As part of our contingency plan, all cleaning, sanitation, and medical supplies have been inventoried at all of our BOP facilities. We have an ample amount of supply on hand. The Bureau of Prisons is prepared to address any supply concerns if necessary.
- We appreciate the cooperation and flexibility as we do everything we can to assure the safety and security of our staff, inmates, and the general public. This is the responsible thing to do to stop the spread.
- Inmates with an imminent court deadline should work through their Unit Team for access to the law library.
- Please share with your families that there is more information about COVID-19, to include the BOP's COVID-19 Action Plan, please visit the BOP's Coronavirus resource page on our public website for accurate information at: <https://www.bop.gov/coronavirus/index.jsp>.
- We are continually monitoring updates nationally as they become available and will share with you as the information becomes available. Staff from the various departments will be making rounds throughout the institution, so please be patient as we work through this very critical and responsible "14 day, Stay in Shelter".

MDC BROOKLYN BOLETÍN

Fecha efectiva: 1 de abril de 2020

- En respuesta a COVID-19, la Oficina de Prisiones (BOP) ha instituido un plan de acción integral que incluye pruebas de detección, pruebas, tratamiento apropiado, prevención, educación y control de infecciones.
- Muchos de ustedes están siguiendo los medios de comunicación con respecto a COVID-19 y el impacto en todo el país. Como resultado del aumento de los casos de COVID-19 en los Estados Unidos, la BOP implementará una "estancia en refugio" durante 14 días para detener la propagación. Esto no es punitivo, sino más bien un esfuerzo nacional y una respuesta a una emergencia de salud pública.
- Durante este tiempo, se le dará acceso a atención médica, duchas, acceso por teléfono y correo electrónico en grupos pequeños en horarios designados, de forma limitada. Las comidas y el economato limitado se entregarán a las unidades de vivienda. Se necesitarán algunos trabajadores internos, pero será de forma limitada.
- Le pedimos que continúe aumentando sus esfuerzos de saneamiento e higiene en la unidad de vivienda y en sus celdas. El personal ha aumentado los esfuerzos de saneamiento en toda la institución.
- Un recluso dio positivo por COVID-19 y ya no es contagioso según las pautas de los CDC. La institución modificó las operaciones y "Stay in Shelter" es un esfuerzo para ser proactivo.
- Se le recomienda que evite tocarse la cara y que se lave las manos con frecuencia con agua y jabón, de acuerdo con las pautas de los Centros para el Control y la Prevención de Enfermedades (CDC). Practique el distanciamiento social siempre que sea práctico.
- La BOP ha desarrollado e implementado un plan de acción para nuestra gestión de suministros, movimiento de internos, así como otros aspectos importantes. Como parte de nuestro plan de contingencia, todos los suministros de limpieza, saneamiento y médicos se han inventariado en todas nuestras instalaciones de BOP. Tenemos una gran cantidad de suministros a mano. La Oficina de Prisiones está preparada para abordar cualquier inquietud de suministro si es necesario.
- Apreciamos la cooperación y flexibilidad, ya que hacemos todo lo posible para garantizar la seguridad de nuestro personal, los reclusos y el público en general. Esto es lo que hay que hacer para detener la propagación.
- Los reclusos con una fecha límite inminente en la corte deben trabajar a través de su Equipo de Unidad para acceder a la biblioteca legal.
- Comparta con sus familias que hay más información sobre COVID-19, para incluir el Plan de Acción COVID-19 de BOP, visite la página de recursos de Coronavirus de BOP en nuestro sitio web público para obtener información precisa en <https://www.bop.gov/coronavirus/index.jsp>.
- Estamos monitoreando continuamente las actualizaciones a nivel nacional a medida que estén disponibles y las compartiremos con usted a medida que la información esté disponible. El personal de los diversos departamentos hará rondas en toda la institución, así que tenga paciencia mientras trabajamos en este crítico y responsable "14 días, quédese en el refugio".

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U.S. District Court
Southern District of New York

Honorable Judge
Loretta A. Preska
United States District Court
Southern District of New York
U.S. Courthouse
300 QUARROPS STREET
White Plains, N.Y. 10601

LEGAL MAIL

10601-415099

